

## Notes from the education session

### David Reubain

David made some points about the Human Rights Act 1998:

In one sense, the Act has not had an overarching major impact on education law.

Article 2 of the first protocol is a negative right. It states that no person should be denied a right to education. It does not go so far as bestowing a right to choose the type of provision. There is not much a state has to do in order to comply with this right. Most cases that have been brought based on this article, whether in the UK or Strasbourg, have not been successful.

Article 8 upholds the right to a private and family life. David talked about a case (C R v. London Borough of Merton) where the borough was only prepared to offer a family a residential school place for their disabled son. The family did not want their son to go away, so they challenged the decision under article 8. They were not successful. David is hopeful, however, that a case brought under article 8 could be successful in the future, depending on the facts of that case.

David believes that article 6 could also be used to protect children's educational rights in the future. He said that there are 63,000 children in care in England, 23% of whom have special educational needs. Their only parent is a corporate parent. Since last year, when many local authorities combined their children's social services with educational services, a child's social worker and education officer will have the same line manager. This means that the child may not have the right to a fair hearing, a right guaranteed under article 6.

### Micheline Mason

Micheline made the point that human rights still do not encompass economic rights and there is a colossal difference between the rich and the poor. She doesn't see how we can talk about human rights without basic rights to food and a roof overhead.

The Alliance for Inclusive Education is campaigning to close all segregated schools and units and to bring about complete integration of all children into mainstream schools by the year 2020.

Micheline does not think that people in education believe that they are providing a service. Education is a duty imposed on every citizen, rather than a service. We need to question what education is for; is it for government, parents, industry – to turn out well-trained means of production - or is it for children? Children have no say whatsoever in whether or not they should attend school and if you were to ask children what they wanted from schools they would say something very different from what they are

currently experiencing. The main reason children want to go to school is because their friends are there.

Micheline believes that parents who want their children to go to segregated schools can be taught about the social model of disability and will then understand how their children will benefit from mainstream education.

Micheline has been involved in research which included visits to 21 mainstream schools to see how educational integration works. Although she does not believe that there are yet any truly integrated schools in the country, she saw some impressive examples of children with disabilities integrating successfully.

She believes integration benefits all children. "What better way can we learn to be citizens than through appreciating that inclusion brings humanity?" she asked.

She finished by saying that there are some very basic rights that we need, but don't yet have. These are enshrined in the social model of disability.

## Len Barton

Len believes that different people have very different ideas about what educational inclusion means. He stressed that educational inclusion is concerned with the well-being of all pupils. It is a political issue and challenges key concepts in the educational system, such as beliefs about ability, learning and special needs.

Len said that a significant barrier to inclusive education is the limited awareness and knowledge of legislation by many professionals. A major staff development programme is urgently needed.

The content and purpose of teacher training courses also needs to be fundamentally changed if inclusivity and equality are to be realised. The involvement and inclusion of disabled trainers is vital.

Another significant issue is that of the position and role of teacher assistants. There is very uneven practice across schools and teachers and assistants tend to have separate training. There is an urgent need for joint staff development for these two groups.

Len believes passionately that if concerns about equality are to be treated seriously, we need an open debate between the people involved. There are also serious implications for the leadership of schools. There is little genuine debate currently taking place. Len says that what the government calls 'consultation' is actually a liberal policy of social control. We need hope that possibilities for change are not foreclosed.

## Chair's summing up of panel's presentations

Kate Markus stated that all of the panellists talked about inclusive education and how we can use the concept of human rights to make changes. There was also discussion on the definition of education – it should not simply be narrowly defined as the right to learn the three R's. It should also be about the right to recognise the humanity of the people involved. If we look at it in this way we can see why discussion about human rights is relevant.

## Points raised by the audience in the discussion that followed the panel's presentations:

- Several people said that they didn't believe that all children can benefit from mainstream education and that there is a need for provision for segregated education for some children. One participant said that children could sometimes suffer badly because they couldn't cope in a mainstream environment. Another participant, a mother of an autistic child, said that by attending a segregated school her son had had specialist care and education and as a result was better able to cope with adult life in the community.
- In response to these points, Micheline reiterated that she thought that all children should attend mainstream education.
- A participant agreed strongly with Len and Micheline in their belief that segregated schooling should come to an end. She said that she had been to a special school between the ages of 6 and 16 and had suffered harm because of it. She also pointed out that children don't have a right to a mainstream education, but have to go to a tribunal in some instances to make a case for inclusion in mainstream education.
- Regarding the last point, David Reubain said that the state is obliged only to provide an education, not a specific type of education. Micheline said that tribunal decisions can depend very much on the judge and she wondered if judges were given proper training for tribunals.
- A participant, a mother of a 45 year-old woman with mild learning difficulties, asked why it is that education for people with learning difficulties is assumed to end at 16. She said that many children in special schools only really begin to get going at the age of 16 and 30 would be a more appropriate age for them to finish their education.
- There was some discussion about how a lack of resources undermined the principle of educational inclusion. A participant from the East Riding of Yorkshire said that her local authority is reluctant to statement children because statements cost the authority money.
- The chair, Kate Markus, said that the judgement of whether a child needs a statement is flexible and can differ from local authority to local authority.